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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 16375US02)

In the Application of: Jack Dunnous, et al.

U.S. Serial No.: 10/624,810

Filed: July 22, 2003

For: METHOD AND APPARATUS FOR
PRODUCING MULTI-COLOR
CONCRETE

Examiner: David P. Turocy

Group Art Unit: 1762

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DECLARATION OF INVENTORS UNDER 37 C.F.R. § 1.131

1. My name is William J. Yocum, I am currently employed at Rockwood Pigments, N.A., and my title is Technical Marketing Manager. I am a co-inventor of the present patent application.
2. My name is Jack Dunnous, I am currently retired. I am a co-inventor of the present patent application.
3. All statements made herein of our own knowledge are true and all statements made upon information and belief are believed to be true.
4. We have been made aware of U.S. Patent Publication No. US 2003/0197310 A1 (the "Bailey publication").
5. On information and belief, the Bailey publication is the publication of U.S. Patent Application No. 10/127,861 (the "Bailey application"), which was filed on April 22, 2002 and which has a publication date of October 23, 2003.
6. On information and belief, the Bailey application has been assigned to Anchor Wall Systems, Inc. of Minnetonka, Minnesota ("Anchor"), and that assignment was recorded in the Patent Office at Reel/Fram. 013007/0668 on 06/18/2002.

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7. Paragraph 36 of the Bailey publication states that "In the preferred embodiment, the pigment is SPR 9000 series color available from Hamburger Color Company of King of Prussia, Pa."
8. The SPR 9000 series color disclosed in the Bailey publication is a commercial embodiment of the spray color dispersions claimed in the present application.
9. The present inventors, Jack Dunnous and William J. Yocum, while employed by Hamburger Color Co., developed the spray color dispersions known as the SPR 9000 series and Hamburger first sold them to Anchor before April 22, 2002.
10. We thus invented the spray color dispersions claimed in the present application prior to Anchor being able to obtain them and disclose them in its application filed on April 22, 2002.
11. Invoice # 407889 is attached to this Declaration. The date of the Invoice is prior to April 22, 2002, although all dates have been removed from the attached papers in conjunction with filing this Declaration because we have been advised that removal of dates preceding April 22, 2002 is appropriate in accordance with §715.07 (II) of the Manual of Patent Examining Procedures.
12. Invoice # 407889 is evidence that Hamburger sold to Anchor 500 pounds of SPR 9000 Q spray, 500 pounds of SPR 9001 J Spray, 60 pounds of SPR 9002 Herbert Tan spray, and 60 pounds of SPR 9003 Putty spray before April 22, 2002.
13. The second page of the attached Invoice shows that the SPR 9000 Q spray sold to Anchor before April 22, 2002, was batch number 11121, that the SPR 9001 J Spray was batch number 11122, and that both the SPR 9002 Herbert Tan spray and the SPR 9003 Putty spray were made in the lab.
14. The batch sheets for the SPR 9000 and SPR 9001 sprays sold to Anchor per Invoice #407899 are also attached. These batch sheets show that these particular batches were made before April 22, 2002 (date removed).

15. The batch sheets further show that the compositions of the SPR 9000 and SPR 9001 sprays sold to Anchor before April 22, 2002 contained an iron oxide pigment ("Q,") and a polymer binding agent ("J-1925" – a styrenated acrylic polymer) in a water dispersion as claimed in the present application.

We, the undersigned, acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. §1001 and may jeopardize the validity of the present application or any patent issuing thereon.

Jack Durnous
Jack Durnous Date

William J. Yocum 6/20/05
William J. Yocum Date

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